

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 9616

PERMIT 5407

LICENSE 2570

ORDER ALLOWING CHANGE IN THE PLACE OF USE
AND AMENDING THE LICENSE

WHEREAS:

1. License 2570 was issued to Hoefling Brothers and was filed with the County Recorder of Butte County on March 25, 1943.
2. License 2570 was subsequently assigned to Surcease Mining Company.
3. An order allowing changes in the purpose of use and place of use was grant on June 22, 1949 and was recorded with the County of Butte County on June 24, 1949.
4. License 2570 was assigned to Feather Pines, a General Partnership on November 12, 1969.
5. A petition for changes in the purpose of use and place of use was granted on September 2, 1987 and was recorded with the County of Butte County on September 16, 1987 as Document No. 87-33399.
6. License 2570 was assigned to David G. and Lisa Martin October 27, 1987.
7. License 2570 was subsequently assigned to Frazier Creek Water Association.
8. A petition for a change in the place of use has been filed with the State Water Resources Control Board and said Board has determined that good cause for such change has been shown.
9. The Board has determined that the petitioned change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
10. The Board's continuing authority provisions of this license should be updated to reflect Section 780(a), Title 23, California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The place of use under this license shall be as follows:

Irrigation: one acre within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 7, T21N, R5E, MDB&M;

All other uses: within SE $\frac{1}{4}$ of NW $\frac{1}{4}$, NE $\frac{1}{4}$ of SW $\frac{1}{4}$, SW $\frac{1}{4}$ of SW $\frac{1}{4}$, SE $\frac{1}{4}$ of SW $\frac{1}{4}$ and SW $\frac{1}{4}$ of SE $\frac{1}{4}$, all in Section 7, T21N, R5E, MDB&M.

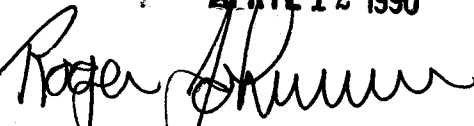
2. The Board continuing authority provision in this license be amended to contain Section 780(a), Title 23, California Code of Regulations which read as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated: **APRIL 12 1990**



Walter G. Pettit, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 9616

PERMIT 5470

LICENSE 2570

ORDER ALLOWING CHANGE IN PURPOSE OF USE
PLACE OF USE AND AMENDING THE LICENSE

WHEREAS:

1. License 2570 was issued to Hoefling Brothers and was filed with the County Recorder of Butte County on March 25, 1943.
2. License 2570 was subsequently assigned to Sarcease Mining Company.
3. An order allowing change in purpose of use and place of use was granted on June 22, 1949 and has been recorded with the County Recorder of Butte County on June 24, 1949.
4. License 2570 was subsequently assigned to Feather Pines, a General Partnership.
5. A petition for change in purpose of use and place of use has been filed with the State Water Resources Control Board and said Board has determined that good cause for such change has been shown.
6. The Board has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The purposes of use under this license shall be as follows:

Irrigation, domestic and fire protection

2. The place of use under this license shall be as follows:

40 acres within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 18, T21N, R5E, MDB&M

3. The continuing authority provision in this license shall be amended to conform to Section 780, Title 23, California Administrative Code which reads as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

SEPTEMBER 02 1987

Dated:

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

ORDER

APPLICATION 9616

PERMIT 5470

LICENSE 2570

ORDER ALLOWING CHANGE IN CHARACTER OF USE
AND PLACE OF USE

WHEREAS petition was filed on March 25, 1949 to change the character of use of water under Application 9616, Permit 5470, License 2570 from mining and domestic uses to industrial, domestic and fire protection uses, and

WHEREAS petition was filed on May 18, 1949 to include a sawmill and log pond in the place of use described under the aforesaid license, and

WHEREAS licensee has established to the satisfaction of the State Engineer that the aforesaid changes will not operate to the injury of any other legal user of water and the State Engineer so finds,

NOW THEREFORE it is ordered that permission be and the same is hereby granted to change

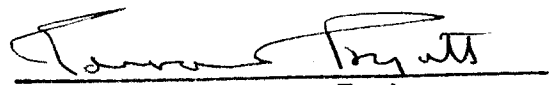
The Character of Use to industrial, domestic and fire protection uses, and

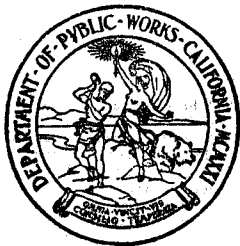
The Place of Use to Surcease Mine within the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 7, T 21 N, R 5 E, M.D.B. & M., and to a sawmill and log pond within the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 7.

WITNESS my hand and the seal of the Department of Public Works of the

State of California this 22nd day of June, 1949.




Edward Hyatt, State Engineer



STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES

License for Diversion and Use of Water

LICENSE 2570

PERMIT 5470

APPLICATION 9616

THIS IS TO CERTIFY, That **Hoefling Brothers, Sacramento, California**

have made proof to the satisfaction of the Division of Water Resources of California of a right to the use of the waters of **East and West Branches of Frazer Creek in Butte County** tributary of **North Fork of Feather River**

for the purpose of **mining and domestic uses** under Permit **5470** of the Division of Water Resources and that said right to the use of said waters has been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Resources and the terms of the said permit; that the priority of the right herein confirmed dates from **June 14, 1939**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed **one hundred thousand (100,000) gallons per day from January 1 to December 31 of each season.**

The points of diversion of such water are located (East Branch) South, ten hundred thirty and one tenth (1030.1) feet and East, twenty eight hundred two and six tenths (2802.6) feet; and (West Branch) South, ten hundred thirty one (1031) feet and East twenty six hundred fifty two (2652) feet from the N.W. corner of Section 8, T 21 N, R 5 E, M.D.B. & M., both points being within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Section 8.

A description of the lands or the place where such water is put to beneficial use is as follows: mining and domestic uses within the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 7, T 21 N, R 5 E, M.D.B. & M.

Water is returned to North Fork of Feather River within the NW $\frac{1}{4}$ of Section 13, T 21 N, R 4 E, M.D.B. & M.

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Division of Water Resources in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Division of Water Resources.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of diversion herein specified and to the lands or place of use herein described.

1

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes of 1913, as amended, which is as follows:

SEC. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; provided, that at any time after the expiration of twenty years after the granting of a license, the state or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee, or licensee, or the heirs, successors, or assigns, of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors, or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors, or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. The findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; provided, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; provided, however, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and providing, further, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and providing, further, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and providing, further, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.



Witness my hand and the seal of the Department of Public
Works of the State of California, this 22
day of March, 1943

EDWARD HYATT
State Engineer

By Harold Conkling
Deputy

3/25/49

RECEIVED NOTICE OF ASSIGNMENT TO

Successor Mining Co.

4/3/57

RECEIVED NOTICE OF ASSIGNMENT TO

James A. Moak

and Frankie Moak

10/17/57

RECEIVED NOTICE OF ASSIGNMENT TO

Joint of Frankie Moak

To James A. Moak

Partial Frankie Moak

10-7-60

RECEIVED NOTICE OF ASSIGNMENT TO

Bennett Inc.

7-7-66

RECEIVED NOTICE OF ASSIGNMENT TO

RECEIVED NOTICE OF ASSIGNMENT TO

10-27-87

Asgd to David B & Lisa Martin

4/20/89

Asgd to Greaser Pines A partnership

5/20/89

Asgd to Brazier Creek Association

LICENSE 2570

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RESOURCES

LICENSE

TO APPROPRIATE WATER

ISSUED TO

HOEFLING BROTHERS

DATED

March 22, 1943